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January 22, 2010

VIA ELECTRONIC FILING

Honorable Sandra J. Feuerstein
United States District Court
Eastern District of New York
United States Courthouse
290 Federal Plaza
Central Islip, New York 11722-4437

Re: Carter v. Ocean Beach, et al.
Case No.: 07 Civ. 1215 (SJF)(ETB)

Your Honor:

The law firm of Rivkin Radler LLP represents Defendants, Incorporated Village of Ocean Beach, Mayor Loeffler, former Mayor Rogers and the Ocean Beach Police Department, (hereinafter "Village Defendants"). The Village Defendants respectfully submit this letter to request that prior to the commencement of the trial of this matter, which is presently scheduled for February 22, 2010,¹ that Your Honor rule on the three motions for summary judgment filed by: (1) the Village Defendants; (2) Defendant Hesse, and; (3) the County Defendants, or, in the alternative, stay the trial pending resolution of the respective motions. Defendants' respective motions and plaintiffs' opposition thereto were filed on January 15, 2010.

As addressed at the pre-trial conference, the Village has a \$1 million policy limit and through December 31, 2009, that limit has been substantially eroded such that the potential exists that the Village will likely not have sufficient monies under the policy remaining to fund their defense through trial and any resulting appeals. Like most municipalities, the Village is confronted with serious financial constraints, and it is having a difficult time trying to plan its budget for the upcoming fiscal year given that it does not know how many claims, if any, will survive summary judgment. Without the summary judgment motion ruled upon, the Village has no way to plan for its upcoming fiscal year.

¹ Presently outstanding is Plaintiffs' letter motion requesting that jury selection and trial be adjourned until March 1, 2010 or, in the alternative, for jury selection to commence on February 22, 2010 and the trial to commence on March 1, 2010.



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Accordingly, for the reasons set forth above, the Village is respectfully requesting that Your Honor either stay the trial pending the resolution of the motions for summary judgment or resolve the motions in advance of the February 22, 2009 trial.

Respectfully submitted,

RIVKIN RADLER LLP

/s/
Kenneth A. Novikoff
(KAN-0350)

KAN:jas

cc: Andrew S. Goodstadt, Esq. (Via ECF)
Kevin W. Connolly, Esq. (Via ECF)
Arlene Zwilling, Esq. (Via ECF)

Peter P. McNamara, Esq. (i/o)